

Message Text

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ORIGIN EB-08

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ARMY/DALO-ILP: MR. HENDERSON
PATENT OFFICE - DHOINKES
-----005038 010312Z /61
R 311935Z AUG 77
FM SECSTATE WASHDC
TO AMEMBASSY TEHRAN

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E.O. 11652: GDS

TAGS: EIND, MASS, IR

SUBJECT: FOREIGN MILITARY SALES: CASE DA/IRAN/VFN:
PATENTS RIGHTS PROBLEM

REF: (A) MARTIN-KEENE LETTER OF FEBRUARY 9, (B) 76 TEHRAN
5008

1. BELGIAN EMBASSY CONTINUES TO SEEK ANSWER TO QUESTION
OF POSSIBLE INFRINGEMENT OF BELGIAN FIRM'S PATENT RIGHTS
IN THIS FMS CASE. IN NOTE TO THE DEPARTMENT DATED APRIL
19, 1977, BELGIAN EMBASSY RAISED A NUMBER OF COMPLEX QUES-
TIONS (COPY OF NOTE BEING POUCHED TO EMBASSY FOR PM --
MARTIN). WHILE WE ARE NOT IN AGREEMENT WITH MANY OF THE
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POINTS MADE IN THE BELGIAN NOTE, WE DO THINK IT APPROPRIATE
TO AGAIN RAISE ISSUE WITH GOI.

2. ONE OF THE KEY QUESTIONS FOR WHICH THERE IS NO CLEAR
ANSWER IS THE EXACT NATURE OF THE BELGIAN FIRM'S PATENT
RIGHTS IN IRAN. THIS DEPENDS ON THE INTRICACIES OF IRANIAN
LAW, THE TEXTS OF WHICH ARE NOT FULLY AVAILABLE TO WASH-

INGTON AGENCIES, AS WELL AS THE EXACT SCOPE OF THE CLAIMS

INVOLVED IN THIS SPECIFIC PATENT.

3. IT IS CLEAR, HOWEVER, THAT IN ACCEPTING THIS OFFER, GOI DID COMMIT ITSELF TO ARRIVE "AT APPROPRIATE AGREEMENT" WITH THE BELGIAN FIRM REGARDING ANY PATENT RIGHTS THAT FIRM MIGHT HAVE IN IRAN. ACCORDING TO THE BELGIAN EMBASSY, SUCH AN AGREEMENT HAS NOT YET BEEN REACHED, DESPITE REPEATED EFFORTS BY THE FIRM TO DO SO.

4. PROTECTION OF LEGITIMATE PATENT RIGHTS AND RESPECT FOR CONTRACTUAL OBLIGATIONS REGARDING SUCH RIGHTS ARE AN ONGOING CONCERN TO DEPARTMENT AND ARE PART OF ESTABLISHED U.S. INTERNATIONAL ECONOMIC POLICY. THEREFORE, IT IS APPROPRIATE TO AGAIN BRING THIS PROBLEM TO THE ATTENTION OF THE GOI.

5. ACTION REQUESTED: EMBASSY IS REQUESTED TO DELIVER DIPLOMATIC NOTE ON THIS SUBJECT TO GOI. IF APPROPRIATE, COPY OF NOTE SHOULD ALSO BE DELIVERED DIRECTLY TO MINISTRY OF WAR (MASSUMI/TOUFANIAN) SINCE ORIGINAL DISCUSSIONS ON THIS PROBLEM WERE HELD THERE. ANY RESPONSE BY GOI SHOULD BE IMMEDIATELY REPORTED TO DEPARTMENT. SUGGESTED TEXT OF NOTE FOLLOWS:

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6. TEXT. QUOTE: "THE UNITED STATES EMBASSY PRESENTS ITS COMPLIMENTS AND REFERS TO COMMUNICATIONS THE DEPARTMENT OF STATE HAS RECEIVED FROM THE EMBASSY OF BELGIUM IN WASHINGTON CONCERNING THE UNITED STATES' SALE TO IRAN OF 480,000 2.75 INCH ROCKETS PURSUANT TO FOREIGN MILITARY SALES CASE DA IRAN VFN, SIGNED ON JANUARY 21, 1975.

-- "THE BELGIAN EMBASSY HAS STATED THAT A BELGIAN FIRM, LES FORGES DE ZEEBRUGGE SA, HOLDS CERTAIN PATENT RIGHTS IN IRAN CONCERNING THE MOTOR OF THESE ROCKETS. IN THIS CONNECTION, THE UNITED STATES AUTHORITIES WISH TO POINT OUT THAT NOTE 10 OF CASE DA IRAN VFN PROVIDES:

-- "THE FIRM OF S.A. LES FORGES DE ZEEBRUGGE, 145 RUE BELLENAY, HERSTAL, LILGE, BELGIUM, IS BELIEVED TO HOLD ONE OR MORE PATENT RIGHTS, THE TECHNOLOGY OF WHICH IS UTILIZED IN PRODUCTION OF THE 2.75 INCH ROCKET. BY ACCEPTANCE OF THIS CASE, PURCHASER ADVISES THE US GOVERNMENT IT HAS ARRIVED AT AN APPROPRIATE AGREEMENT WITH THE ABOVE FIRM, AND AGREES TO INDEMNIFY THE US GOVERNMENT AGAINST LIABILITY, INCLUDING ANY AND ALL COSTS WHICH MIGHT BE ASSESSED AGAINST THE US GOVERNMENT, IN PATENT

INFRINGEMENT OR SIMILAR SUITS, BY THE ORIGINAL INVENTORS
AND/OR THEIR AGENTS, ASSIGNEES, OR SUCCESSORS IN TITLE.'

-- "IN ORDER TO CLARIFY THIS MATTER, THE UNITED STATES
AUTHORITIES WOULD APPRECIATE THE VIEWS OF THE GOVERNMENT
OF IRAN REGARDING THE NATURE OF ANY PATENT RIGHTS OF THE
FIRM OF LES FORGES DE ZEEBRUGGE SA UNDER THE LAWS OF IRAN,
AND CONCERNING ANY MEASURES TAKEN BY THE GOVERNMENT OF
IRAN PURSUANT TO THE PROVISIONS OF NOTE 10 OF CASE DA
IRAN VFN. (CLOSING)" UNQUOTE CHRISTOPHER

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